

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5122 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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RAMNIKLAL MANOHARDAS SHAH

Versus

STATE OF GUJARAT

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Appearance:

MR YATIN SONI for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 2

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 06/11/98

ORAL JUDGEMENT

Rule. Service of Rule is waived by Mr. D.P.Joshi, learned A.G.P. for the respondents. The respondent No.1 while exercising powers under Section 34 of the Urban Land Ceiling Act, by way of suo motu revision, declared 349.76 square meters of land as surplus and excess land in the holding of petitioner. This order has been challenged by the petitioner on number of grounds, inter-alia on the ground that the land held by the petitioner included construction which is more than 349.76 square meters of land. It has also been submitted on behalf of the petitioner that even if a small piece of land is excess, the same can be condoned, in case if the same is 10 % of the said land held by the petitioner. All these questions will have to be reconsidered by the Revisional Authority. In fact, order dated 5th August 1998 clarifies the situation to some extent . The said order reads as under :

"Leave to amend.

The petitioner has offered explanation for the delay in filing this petition in para 5 (f) of the petition. The learned counsel for the petitioner states that if the constructed property is excluded, there will be no excess vacant land ; even as per the impugned order passed by the State Government u/S. 34 of the Act, the petitioner's excess land holding is stated to be only 349.76 square meters. Whereas

the constructed property which is included in the petitioner's land holding is much more than 349.76 square meters.

Hence, notice returnable on 19-8-1998.

Direct service is permitted."

I have heard learned A.G.P. for the State. According to his submission the matter might be remanded to the Revisional Authority for reconsideration thereof. In the light of what is stated above, the following direction is issued.

The impugned order dated 27-5-88, passed by the respondent No.1 in exercise of suo motu powers of revision is hereby set aside and the matter is remanded to the said Revisional Authority for reconsidering the same and deciding it afresh after giving opportunity to the petitioner of being heard. The decision shall be taken as expeditiously as possible in accordance with law as stated above. Rule made absolute only in the aforesaid terms. D.S.permitted.

6-11-98 (M.S.Parikh,J.)

mithabhai